

# Union Calendar No. 499

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3378

**[Report No. 106–842, Part I]**

To authorize certain actions to address the comprehensive treatment of sewage emanating from the Tijuana River in order to substantially reduce river and ocean pollution in the San Diego border region.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. BILBRAY (for himself and Mr. FILNER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 12, 2000

Reported from the Committee on Transportation and Infrastructure with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 12, 2000

Referral to the Committee on International Relations extended for a period ending not later than September 12, 2000

SEPTEMBER 12, 2000

The Committee on International Relations discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# A BILL

To authorize certain actions to address the comprehensive treatment of sewage emanating from the Tijuana River in order to substantially reduce river and ocean pollution in the San Diego border region.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Tijuana River Valley*  
5       *Estuary and Beach Sewage Cleanup Act of 2000”.*

6       **SEC. 2. PURPOSE.**

7       *The purpose of this Act is to authorize the United*  
8       *States to take actions to address comprehensively the treat-*  
9       *ment of sewage emanating from the Tijuana River area,*  
10       *Mexico, that flows untreated or partially treated into the*  
11       *United States causing significant adverse public health and*  
12       *environmental impacts.*

13       **SEC. 3. DEFINITIONS.**

14       *In this Act, the following definitions apply:*

15               (1) *ADMINISTRATOR.—The term “Adminis-*  
16       *trator” means the Administrator of the Environ-*  
17       *mental Protection Agency.*

1           (2) *COMMISSION.*—*The term “Commission”*  
2           *means the United States section of the International*  
3           *Boundary and Water Commission, United States and*  
4           *Mexico.*

5           (3) *IWTP.*—*The term “IWTP” means the South*  
6           *Bay International Wastewater Treatment Plant con-*  
7           *structed under the provisions of the Federal Water*  
8           *Pollution Control Act (33 U.S.C. 1251 et seq.), section*  
9           *510 of the Water Quality Act of 1987 (101 Stat. 80–*  
10          *82), and Treaty Minutes to the Treaty for the Utiliza-*  
11          *tion of Waters of the Colorado and Tijuana Rivers*  
12          *and of the Rio Grande, dated February 3, 1944.*

13          (4) *SECONDARY TREATMENT.*—*The term “sec-*  
14          *ondary treatment” has the meaning such term has*  
15          *under the Federal Water Pollution Control Act and*  
16          *its implementing regulations.*

17          (5) *SECRETARY.*—*The term “Secretary” means*  
18          *the Secretary of State.*

19          (6) *MEXICAN FACILITY.*—*The term “Mexican fa-*  
20          *cility” means a proposed public-private wastewater*  
21          *treatment facility to be constructed and operated*  
22          *under this Act within Mexico for the purpose of treat-*  
23          *ing sewage flows generated within Mexico, which*  
24          *flows impact the surface waters, health, and safety of*  
25          *the United States and Mexico.*

1           (7) *MGD*.—*The term “mgd” means million gal-*  
 2       *lons per day.*

3       **SEC. 4. ACTIONS TO BE TAKEN BY THE COMMISSION AND**  
 4               **THE ADMINISTRATOR.**

5       (a) *SECONDARY TREATMENT*.—

6           (1) *IN GENERAL*.—*Subject to the negotiation and*  
 7       *conclusion of a new Treaty Minute or the amendment*  
 8       *of Treaty Minute 283 under section 5, and notwith-*  
 9       *standing section 510(b)(2) of the Water Quality Act*  
 10      *of 1987 (101 Stat. 81), the Commission is authorized*  
 11      *and directed to provide for the secondary treatment of*  
 12      *a total of not more than 50 mgd in Mexico—*

13               (A) *of effluent from the IWTP if such treat-*  
 14              *ment is not provided for at a facility in the*  
 15              *United States; and*

16               (B) *of additional sewage emanating from*  
 17              *the Tijuana River area, Mexico.*

18           (2) *ADDITIONAL AUTHORITY*.—*Subject to the re-*  
 19      *sults of the comprehensive plan developed under sub-*  
 20      *section (b) revealing a need for additional secondary*  
 21      *treatment capacity in the San Diego-Tijuana border*  
 22      *region and recommending the provision of such ca-*  
 23      *capacity in Mexico, the Commission may provide not*  
 24      *more than an additional 25 mgd of secondary treat-*

1        *ment capacity in Mexico for treatment described in*  
2        *paragraph (1).*

3        *(b) COMPREHENSIVE PLAN.—Not later than 24 months*  
4        *after the date of enactment of this Act, the Administrator*  
5        *shall develop a comprehensive plan with stakeholder in-*  
6        *volvement to address the transborder sanitation problems*  
7        *in the San Diego-Tijuana border region. The plan shall in-*  
8        *clude, at a minimum, an analysis of—*

9                *(1) the long-term secondary treatment needs of*  
10        *the region;*

11               *(2) upgrades in the sewage collection system*  
12        *serving the Tijuana area, Mexico; and*

13               *(3) an identification of options, and rec-*  
14        *ommendations for preferred options, for additional*  
15        *sewage treatment capacity for future flows emanating*  
16        *from the Tijuana River area, Mexico.*

17        *(c) CONTRACT.—*

18               *(1) IN GENERAL.—Subject to the availability of*  
19        *appropriations to carry out this subsection, the Com-*  
20        *mission may enter into a fee-for-services contract with*  
21        *the owner of a Mexican facility in order to carry out*  
22        *the secondary treatment requirements of subsection*  
23        *(a) and make payments under such contract.*

24               *(2) TERMS.—Any contract under this subsection*  
25        *shall provide, at a minimum, for the following:*

1           (A) *Transportation of the advanced pri-*  
2           *mary effluent from the IWTP to the Mexican fa-*  
3           *cility for secondary treatment.*

4           (B) *Treatment of the advanced primary ef-*  
5           *fluent from the IWTP to the secondary treatment*  
6           *level in a manner that is in compliance with*  
7           *water quality laws of the United States, Cali-*  
8           *fornia, and Mexico.*

9           (C) *Return conveyance from the Mexican*  
10          *facility of any such treated effluent that cannot*  
11          *be reused in either Mexico or the United States*  
12          *to the South Bay Ocean Outfall for discharge*  
13          *into the Pacific Ocean in compliance with water*  
14          *quality laws of the United States and California.*

15          (D) *Subject to the requirements of sub-*  
16          *section (a), additional sewage treatment capacity*  
17          *that provides for advanced primary and sec-*  
18          *ondary treatment of sewage described in para-*  
19          *graph (1)(B) in addition to the capacity re-*  
20          *quired to treat the advanced primary effluent*  
21          *from the IWTP.*

22          (E) *A contract term of 30 years.*

23          (F) *Arrangements for monitoring,*  
24          *verification, and enforcement of compliance with*

1        *United States, California, and Mexican water*  
2        *quality standards.*

3                *(G) Arrangements for the disposal and use*  
4        *of sludge, produced from the IWTP and the*  
5        *Mexican facility, at a location or locations in*  
6        *Mexico.*

7                *(H) Payment of fees by the Commission to*  
8        *the owner of the Mexican facility for sewage*  
9        *treatment services with the annual amount pay-*  
10       *able to reflect all costs associated with the devel-*  
11       *opment, financing, construction, operation, and*  
12       *maintenance of the Mexican facility.*

13               *(I) Provision for the transfer of ownership*  
14       *of the Mexican facility to the United States, and*  
15       *provision for a cancellation fee by the United*  
16       *States to the owner of the Mexican facility, if the*  
17       *Commission fails to perform its obligations*  
18       *under the contract. The cancellation fee shall be*  
19       *in amounts declining over the term of the con-*  
20       *tract anticipated to be sufficient to repay con-*  
21       *struction debt and other amounts due to the*  
22       *owner that remain unamortized due to early ter-*  
23       *mination of the contract.*

24               *(J) Provision for the transfer of ownership*  
25       *of the Mexican facility to the United States,*

1           *without a cancellation fee, if the owner of the*  
2           *Mexican facility fails to perform the obligations*  
3           *of the owner under the contract.*

4           (3) *LIMITATION.—The Contract Disputes Act of*  
5           *1978 (41 U.S.C. 601–613) shall not apply to a con-*  
6           *tract executed under this section.*

7   **SEC. 5. NEGOTIATION OF NEW TREATY MINUTE.**

8           (a) *CONGRESSIONAL STATEMENT.—In light of the ex-*  
9           *isting threat to the environment and to public health and*  
10          *safety within the United States as a result of the river and*  
11          *ocean pollution in the San Diego-Tijuana border region,*  
12          *the Secretary is requested to give the highest priority to the*  
13          *negotiation and execution of a new Treaty Minute, or a*  
14          *modification of Treaty Minute 283, consistent with the pro-*  
15          *visions of this Act, in order that the other provisions of this*  
16          *Act to address such pollution may be implemented as soon*  
17          *as possible.*

18          (b) *NEGOTIATION.—*

19               (1) *INITIATION.—The Secretary is requested to*  
20               *initiate negotiations with Mexico, within 60 days*  
21               *after the date of enactment of this Act, for a new*  
22               *Treaty Minute or a modification of Treaty Minute*  
23               *283 consistent with the provisions of this Act.*

24               (2) *IMPLEMENTATION.—Implementation of a*  
25               *new Treaty Minute or a modification of Treaty*

1     *Minute 283 under this Act shall be subject to the pro-*  
2     *visions of the National Environmental Policy Act of*  
3     *1969 (42 U.S.C. 4321 et seq.).*

4             (3) *MATTERS TO BE ADDRESSED.—A new Trea-*  
5     *ty Minute or a modification of Treaty Minute 283*  
6     *under paragraph (1) should address, at a minimum,*  
7     *the following:*

8             (A) *The siting of treatment facilities in*  
9     *Mexico and in the United States.*

10            (B) *Provision for the secondary treatment of*  
11     *effluent from the IWTP at a Mexican facility if*  
12     *such treatment is not provided for at a facility*  
13     *in the United States.*

14            (C) *Provision for additional capacity for*  
15     *advanced primary and secondary treatment of*  
16     *additional sewage emanating from the Tijuana*  
17     *River area, Mexico, in addition to the treatment*  
18     *capacity for the advanced primary effluent from*  
19     *the IWTP at the Mexican facility.*

20            (D) *Provision for any and all approvals*  
21     *from Mexican authorities necessary to facilitate*  
22     *water quality verification and enforcement at the*  
23     *Mexican facility.*

24            (E) *Any terms and conditions considered*  
25     *necessary to allow for use in the United States*

1           *of treated effluent from the Mexican facility, if*  
2           *there is reclaimed water which is surplus to the*  
3           *needs of users in Mexico and such use is con-*  
4           *sistent with applicable United States and Cali-*  
5           *fornia law.*

6                     *(F) Any other terms and conditions consid-*  
7           *ered necessary by the Secretary in order to im-*  
8           *plement the provisions of this Act.*

9   **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

10           *There are authorized to be appropriated such sums as*  
11   *may be necessary to carry out this Act.*



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